

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BILLY BRANTLEY, TODD TOLBERT, :
RODNEY V. JONES, AND ANTHONY :
MARTIN, :

Plaintiffs :

vs. :

CINERGY CORPORATION :

Defendant :

CASE NO.: 01-CV-378
JUDGE SUSAN J. DLOTT

**PLAINTIFFS' MOTION FOR
A STATUS/SCHEDULING
CONFERENCE**

Now comes Plaintiffs requesting that the Court conduct a status/scheduling conference to set a new schedule.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF MOTION

For almost one year, the parties have been engaged in negotiations and/or mediation to obtain a settlement of the state class action which would have included Plaintiffs in the case at bar. These discussions, which came close to resolving these matters, have recently broken down.

In January 2004, this Court entered an agreed Order staying litigation. The order provided that if a settlement was not effectuated, the stay would be lifted. A subsequent Order dismissed the pending motions for summary judgment without prejudice to resubmission in the event settlement was not consummated and provided that Plaintiffs would be afforded additional time to respond to those pending motions.

Since January of 2003, the parties have focused their full attention toward trying to settle all of the cases filed against the defendant, including this case. As a consequence, the Plaintiffs in the case at bar did not conduct discovery on the merits regarding their claims. After all, one of the big problems often faced in trying to settle cases with fee-reversal statutes is the legal fees expended by Plaintiffs' counsel. Plaintiffs' counsel did not want to increase its fees and expenses by conducting merits discovery in this case if it were going to be possible to settle all cases. Thus, Plaintiffs have not yet completed their discovery in this case. Plaintiffs need some additional time to take depositions and obtain some important documents before responding to Defendant's summary judgment motions. For all these reasons, Plaintiffs request a new scheduling order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2004 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification to:

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